

**RECEIVED
CENTRAL FAX CENTER**

PATENT

MAY 08 2008 Art. Docket No.: 200309084-1
App. Ser. No.: 10/679,092

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks. Claims 1-30 are pending in the present application of which claims 1, 18, 20-22, 24, and 26-30 are independent. Claims 18, 19, 24, 25 and 30 are withdrawn. Accordingly, claims 1-17, 20-22 and 26-29 were examined of which claims 1, 18, 20-22, 24, 26-29 and 30 are independent.

Claims 1-17, 20-23, 26-29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wiser (6,385,596) in view of Parenty (2002/0064283).

These rejections are traversed for the reasons stated below.

Drawings

The Office Action did not indicate whether the formal drawings filed with the application are accepted. An indication of acceptance of the drawings is requested.

Objection to the Specification

The specification was objected to because the specification allegedly describes non-statutory computer readable media. Independent computer readable medium^s have been amended to recite tangible computer readable medium^s so the objection to the specification is believed to be overcome.

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Claim Rejections Under 35 U.S.C. §103(a)

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in *KSR International Co. v. Teleflex Inc.*, 550 U.S. __, 82 USPQ2d 1385 (2007):

"Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented." Quoting *Graham v. John Deere Co. of Kansas City*, 383 U.S. 1 (1966).

As set forth in MPEP 2143.03, to ascertain the differences between the prior art and the claims at issue, "[a]ll claim limitations must be considered" because "all words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385. According to the Examination Guidelines for Determining Obviousness Under 35 U.S.C. 103 in view of *KSR International Co. v. Teleflex Inc.*, Federal Register, Vol. 72, No. 195, 57526, 57529 (October 10, 2007), once the *Graham* factual inquiries are resolved, there must be a determination of whether the claimed invention would have been obvious to one of ordinary skill in the art based on any one of the following proper rationales:

- (A) Combining prior art elements according to known methods to yield predictable results;
- (B) Simple substitution of one known element for another to obtain predictable results;
- (C) Use of known technique to improve similar devices (methods, or products) in the same way;
- (D) Applying a known technique to a known device (method, or product) ready for improvement to yield predictable results;
- (E) "Obvious to try"—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success;
- (F) Known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art;
- (G) Some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or

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to combine prior art reference teachings to arrive at the claimed invention. *KSR International Co. v. Teleflex Inc.*, 550 U.S., 82 USPQ2d 1385 (2007).

Furthermore, as set forth in *KSR International Co. v. Teleflex Inc.*, quoting from *In re Kahn*, 441 F.3d 977, 988 (CA Fed. 2006), "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasonings with some rational underpinning to support the legal conclusion of obviousness."

Therefore, if the above-identified criteria and rationales are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claims 1-17, 20-23, 26-29 were rejected under 35 U.S.C. §103(a) as being unpatentable over Wiser (6,385,596) in view of Parenty (2002/0064283).

Claim 1 recites,

receiving from a device via an insecure communications channel at least one shared secret in encoded form that functions as an identifier of the device; ...

receiving the shared secret in plaintext form via a secure communications channel.

Wiser in view of Parenty fails to teach or suggest receiving a shared secret via an insecure channel. The rejection alleges this feature is disclosed by Wiser, because Wiser discloses a client transmits a credit card number using SSL v3. However, SSL is a secure channel and not an insecure channel. See Applicants' background, fourth paragraph. See also paragraphs 33 and 36 of Parenty.

Wiser in view of Parenty fails to teach or suggest receiving a shared secret twice, but in two forms, i.e., an encoded form and a plaintext form. According to the rejection, the shared secret is received once in encrypted form by the media licensing center in Wiser.

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However, neither Wiser nor Parenty singly or in combination teach or suggest a media licensing center receiving the credit card information twice, but in two different forms. Furthermore, there would be no need for the media licensing center in Wiser to receive the credit card information twice, because once it is received, the transaction can be completed.

Independent claim 20 recites,

after receiving the confirmation of successful encrypted content download from the content server, prompting the user to accept terms of download and decryption of the encrypted content.

In column 19, lines 1-43, Wiser discloses the delivery system only downloads the content after the user's voucher ID is verified. Wiser in view of Parenty fails to teach or suggest downloading content to the user device first, and then prompting the user to accept terms. Instead, in Wiser, the terms are pre-accepted by the user when the user registers prior to downloading the content. Parenty fails to cure the deficiencies of Wiser.

Independent claim 21 recites, "wherein the decryption key is encrypted using the shared secret." The rejection alleges the credit card information of Wiser is the shared secret. However, Wiser in view of Parenty fails to teach or suggest a decryption key is encrypted with credit card information.

Independent claim 22 recites features similar to claim 1 described above. Accordingly, Wiser in view of Parenty fails to teach or suggest all the features of claim 22.

Independent claim 26 recites features similar to claim 20 described above. Accordingly, Wiser in view of Parenty fails to teach or suggest all the features of claim 26.

Independent claim 27 recites,

receiving a concealed identifier from a device wherein the concealed identifier identifies the device; ...

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receiving the identifier in an unconcealed form over a secure channel;
...
encrypting the key using the identifier.

Wiser in view of Parcny fails to teach or suggest receiving an identifier twice, once in a concealed form and once in an unconcealed form. Also, Wiser in view of Parcny fails to teach or suggest encrypting the key using the identifier. As described above, the rejection interprets the credit card information of Wiser as the claimed identifier. There is no disclosure in Wiser in view of Parcny of encrypting a key using credit card information.

Independent claims 28 and 29 recite features similar to the features of claim 27 described above. Accordingly, Wiser in view of Parcny fails to teach or suggest all the features of claims 28 and 29.

For at least these reasons, claims 1-17, 20-23, 26-29 are believed to be allowable.

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In light of the foregoing, withdrawal of the election requirement and examination of all of the claims of this application are respectfully requested.

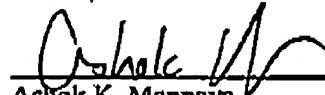
Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the above-identified application, please contact the undersigned at the telephone number listed below.

Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: May 8, 2008

By


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